

Assembly Bill No. 2151

Passed the Assembly August 27, 2010

Chief Clerk of the Assembly

Passed the Senate August 24, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 488.5 and 557.5 of the Insurance Code, and to amend Section 16051 of the Vehicle Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2151, Torres. Insurance: public safety employees: accidents.

Existing law provides that no insurer shall, in issuing or renewing a private automobile insurance policy to a peace officer, member of the California Highway Patrol, or firefighter, with respect to his or her operation of a private motor vehicle, increase the premium on that policy for the reason that the insured or applicant for insurance has been involved in an accident while operating an authorized emergency vehicle, as defined, in the performance of his or her duty during the hours of his or her employment.

This bill would also provide that no insurer shall, in issuing or renewing a private automobile insurance policy to a peace officer, member of the California Highway Patrol, or firefighter, with respect to his or her operation of a private passenger motor vehicle, increase the premium on that policy for the reason that the insured or applicant for insurance has been involved in an accident while operating his or her private passenger motor vehicle in the performance of his or her duty at the request or direction of the employer.

Existing law provides that a peace officer, member of the Department of the California Highway Patrol, or firefighter shall not be required to report any accident in which he or she is involved while operating any employer-leased or employer-rented vehicle, in the performance of his or her duty during the hours of his or her employment, to any person who has issued that peace officer, member of the Department of the California Highway Patrol, or firefighter a private automobile insurance policy.

This bill would additionally provide that a peace officer, member of the Department of the California Highway Patrol, or firefighter shall not be required to report, and the employer of the same may not require or request that a peace officer, member of the Department of the California Highway Patrol, or firefighter report,

any accident in which he or she is involved while operating a private passenger motor vehicle at the request or direction of his or her employer in the performance of the employee's duty to any person who has issued that peace officer, member of the Department of the California Highway Patrol, or firefighter a private automobile insurance policy. The bill would also provide that in the event of a loss or injury that occurs during any time period when the vehicle is operated at the request or direction of the employer in the performance of the employee's duty, the vehicle's owner shall have no liability, and the employer shall be considered the owner of the vehicle for liability purposes. The bill would provide that a good faith delay by an employee in reporting the accident to his or her private passenger motor vehicle liability insurer, under the circumstances described, may not be used by the insurer as a basis to claim delayed reporting, noncooperation, prejudice, or the like as a means of avoiding the defense or indemnity obligations that would otherwise exist under the terms of the automobile liability insurance policy or applicable law in the absence of delayed reporting.

The bill would make conforming changes relating to proof of financial responsibility, in the event of an accident involving a private passenger motor vehicle operated on behalf of a public agency.

The people of the State of California do enact as follows:

SECTION 1. Section 488.5 of the Insurance Code is amended to read:

488.5. (a) No insurer shall, in issuing or renewing a private automobile insurance policy to a peace officer, member of the California Highway Patrol, or firefighter, with respect to his or her operation of a private passenger motor vehicle, increase the premium on that policy for the reason that the insured or applicant for insurance has been involved in an accident while operating an authorized emergency vehicle, as defined in subdivision (a) or (f) of Section 165 of the Vehicle Code or in paragraph (1) or (2) of subdivision (b) of Section 165 of the Vehicle Code, or any employer-leased or employer-rented vehicle, in the performance of his or her duty during the hours of his or her employment, or was involved in an accident while operating his or her private

passenger motor vehicle in the performance of his or her duty at the request or direction of the employer.

(b) No insurer shall, in issuing or renewing a private automobile insurance policy to a federal officer or federal customs agent, with respect to his or her operation of a private motor vehicle, increase the premium on that policy for the reason that the insured or applicant for insurance has been involved in an accident while operating an official government vehicle in the performance of his or her duty during the hours of his or her employment.

(c) As used in this section:

(1) “Peace officer” means every person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(2) “Policy” shall have the same meaning as defined in subdivision (a) of Section 660.

SEC. 2. Section 557.5 of the Insurance Code is amended to read:

557.5. (a) A peace officer, member of the Department of the California Highway Patrol, or firefighter shall not be required to report, nor shall any employer of the same be authorized to request or require that a peace officer, member of the Department of the California Highway Patrol, or firefighter report, any accident in which he or she is involved while operating an authorized emergency vehicle, as defined in subdivision (a), (b), or (f) of Section 165 of the Vehicle Code, any employer-leased or employer-rented vehicle, or any private passenger motor vehicle that is owned, leased, or rented by the employee, if operated at the request or direction of the employer in the performance of the employee’s duty to any person who has issued that peace officer, member of the Department of the California Highway Patrol, or firefighter a private automobile insurance policy.

(b) (1) Notwithstanding any other provision of law or any provision in a private passenger motor vehicle owner’s automobile liability insurance policy, in the event of a loss or injury that occurs during any time period when the vehicle is operated at the request or direction of the employer in the performance of the employee’s duty, the vehicle’s owner shall have no liability. The employer shall be considered the owner of the vehicle for the purpose of Section 17150 of the Vehicle Code, and any losses shall be borne solely by the employer.

(2) Notwithstanding any other provision of law, the employer shall assume liability for a claim in which a dispute exists as to whether the employer directed or requested the employee to use the private passenger motor vehicle when the loss occurred that gave rise to the claim. The private passenger motor vehicle insurer that insures the vehicle shall reimburse the employer to the extent of the insurer's obligation under the applicable automobile liability insurance policy if it is subsequently determined that the employer did not direct or request the employee to use the private passenger motor vehicle when the loss occurred that gave rise to the claim.

(3) A good faith delay by an employee in reporting the accident to his or her private passenger motor vehicle liability insurer, under the circumstances described in this section, shall not be used by the insurer as a basis to claim delayed reporting, noncooperation, prejudice, or the like as a means of avoiding the defense or indemnity obligations that would otherwise exist under the terms of the automobile liability insurance policy or applicable law in the absence of delayed reporting.

(c) As used in this section:

(1) "Peace officer" means every person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(2) "Policy" shall have the same meaning as defined in subdivision (a) of Section 660.

(3) "Private passenger motor vehicle" or "private motor vehicle" means a motor vehicle that is insured under a personal automobile liability insurance policy insuring a single individual or individuals residing in the same household as the named insured, but does not include a vehicle with less than four wheels.

SEC. 3. Section 16051 of the Vehicle Code is amended to read:

16051. (a) Evidence may be established by filing a report indicating that the motor vehicle involved in the accident was owned, rented, or leased by or under the direction of the United States, this state, or any political subdivision of this state or municipality thereof.

(b) Evidence may be established by filing a report indicating that the motor vehicle involved in the accident was owned and operated by a peace officer, member of the Department of the California Highway Patrol, or firefighter in the performance of his or her duty, and at the request of or under the direction of the

United States, this state, or any political subdivision or municipality of this state.

Approved _____, 2010

Governor